

WILLIAM A. VAN METER, ESQ.
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(775) 324-2500

Electronically Filed on: September 29, 2010

Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:)	Case No.: BK-N 10-50526-GWZ
)	
DAVID FREDERICK MILLER)	Chapter 13
)	
TERRIE LYNN MILLER,)	<u>TRUSTEE'S MOTION TO DISMISS</u>
)	
)	
)	
Debtors.)	Date: November 5, 2010
)	Time: 2:00 pm
)	Time Required: (1 Minute)

MOTION TO DISMISS

The Trustee requests that the court enter an order of dismissal in this Chapter 13 case. This Motion is brought pursuant to, 11 U.S.C. §§ 102, 1307(c), Fed. R. Bankr. 1017(f), and the following Memorandum of Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

At the request of a party in interest, a Chapter 13 case may be dismissed for cause. 11 U.S.C. § 1307(c). The Bankruptcy Code provides a nonexclusive list of items that may constitute cause for dismissal of a Chapter 13 case. More specifically, Section 1307 of the Bankruptcy Code provides as follows:

(c) Except as provided in subsection (e) of this section, on request of a party in interest or the United States trustee and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title, or may dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, for cause, including

(1) unreasonable delay by the debtors that is prejudicial to creditors;

...

(3) failure to file a plan timely under section 1321 of this title;

(4) failure to commence making timely payments under section 1326 of this title;

(5) denial of confirmation of a plan under section 1325 of this title and denial of a request made for additional time for filing another plan or a modification of a plan;

(6) material default by the debtors with respect to a term of a confirmed plan;

...

(8) termination of a confirmed plan by reason of the occurrence of a condition specified in the plan other than completion of payments under the plan . . .

(11) failure to pay a postconfirmation domestic support obligation . . .;

(e) . . . failure of the debtor to file a tax return under section 1308.

A Chapter 13 case that was filed on or after October 17, 2005 is also subject to automatic dismissal five (5) days following a request of a party in interest to dismiss the case based on the Debtor's failure to file documents described in 11 U.S.C. § 521(a)(1) within forty-five (45) days of the petition date. 11 U.S.C. § 521(i). The Court may also dismiss a case filed on or after October 17, 2005 based on the Debtor's failure to provide the Trustee with specified tax returns within 7 days of the 341 hearing. 11 U.S.C. § 521(e)(2)(B).

The Trustee believes that the Debtors' Chapter 13 case should be dismissed, or alternatively, if the Court deems it is in the best interests of creditors and the estate, convert the case to Chapter 7 for the following reasons:

The Debtor's plan payments are in default. Based on the Trustee's records on the date this Motion was prepared, the status of the case is as follows:

Date case filed:	02/23/2010
Date plan confirmed (if confirmed):	05/07/2010
Plan Payment:	\$ 475.00
Amount Due:	\$2,850.00
Amount Received:	<u>\$1,900.00</u>
Delinquency:	<u>\$950.00</u>
Approximate months delinquent:	<u>2</u>

As time passes, the above delinquency calculation may change if additional plan payments are not made. The Trustee will, upon request, provide updated information. Updated information regarding payments received is also available on line at the Trustee's website: www.reno13.com. The delinquency is calculated as of the date this document was filed. In addition this calculation does **not** include the current month's payment.

Other: The Debtor withdrew the Plan August 20, 2010, to date an amended plan has not been filed.

Dated: September 29, 2010

/S/ WILLIAM A. VAN METER
WILLIAM A. VAN METER, ESQ.

CERTIFICATE OF NOTICEDistrict/off: 0978-3
Case: 10-50526User: wenzsellg
Form ID: pdf945Page 1 of 2
Total Noticed: 39

Date Rcvd: Sep 30, 2010

The following entities were noticed by first class mail on Oct 02, 2010.

db/jdb +DAVID FREDERICK MILLER, TERRIE LYNN MILLER, PO BOX 54, FERNLEY, NV 89408-0054
 5674107 +AMERICAN PREMIUM FINANCE CORPORATION, Acct No xxxx0559, PO BOX 1331, Madison, MS 39130-1331
 5674108 AWA Collections, Acct No xxxx4163, PO Box 6605, Orange, CA 92863-6605
 5674106 +Allied Interstate, Acct No xxxx0001, Consumer Services Dept, PO Box 361477,
 Columbus, OH 43236-1477
 5674109 +B&P COLLECTION SERVICE, Acct No xxxx4694, xxxx8979, 816 S CENTER ST, Reno, NV 89501-2306
 5674110 +Banner Churchill Comm Hosp, Acct No xxxx5879, PO Box 18, Phoenix, AZ 85001-0018
 5674111 +Beneficial Finance, Acct No xxxx3744, P.O. Box 60101, City Of Industry, CA 91716-0101
 5674114 CHECKNET, Acct No xxxx2835, PO BOX 150, Provo, UT 84603-0150
 6120901 CHECKNET INC, 746 EASTG 1910 SOUTH, SUITE #3, PROVO, UT 84606
 6120903 +CHECKNET INC., 746 EAST 1910 SOUTH, SUITE #3, PROVO, UT 84606-6225
 5674115 CURVES-FERNLEY, 1420 HWY 95A NORTH, STE 2, Fernley, NV 89408
 5674116 +DOLLAR LOAN CENTER, Acct No xxxx8268, xxxx2690, 1201 PENNY LANE, STE 160,
 Fernley, NV 89408-8943
 5674117 FINANCIAL INDEPENDENCE & RESOURCE EDUC, Acct No 9059, 250 TEQUESTA DR, STE 304,
 Jupiter, FL 33469-2766
 5674118 +Firstsource, Acct No xxxxxx1053, 7650 Magna Dr, Belleville, IL 62223-3366
 5674120 HSBC, Acct No xxxx4279, PO Box 5244, Carol Stream, IL 60197-5244
 5674119 Home Depot Credit Services, Acct No xxxx6217, PO Box 182676, Columbus, OH 43218-2676
 5674121 ++INTERNAL REVENUE SERVICE, CENTRALIZED INSOLVENCY OPERATIONS, PO BOX 21126,
 PHILADELPHIA PA 19114-0326
 (address filed with court: Internal Revenue Service, Acct No xxxxxx4187, ACS Support,
 PO Box 24017, Fresno, CA 93779-4017)
 5674123 Maverick Finance, Acct No xxxx9131, 22 E Main St Ste 102, Fernley, NV 89408
 5674125 Northern Nevada Medical Center, Acct No xxxx5224, PO Box 31001-0827,
 Pasadena, CA 91110-0827
 5674126 +Northland Group, Inc., Acct No xxxx6217, PO Box 390905, Minneapolis, MN 55439-0905
 5674127 +Orchard Bank, Acct No xxxx4279, PO Box 60102, City of Industry, CA 91716-0102
 5838597 +PRA Receivables Management, LLC, As Agent Of Portfolio Recovery Assocs., PO Box 12914,
 NORFOLK VA 23541-0914
 5674129 +SFC OF NEVADA, LLC, Acct No 9131, 192 E MAIN STREET, STE 7, Fernley, NV 89408-7720
 5674130 +Sun Loan, Acct No xxxx3095, 2217 Oddie Blvd, Sparks, NV 89431-7573
 5674131 Target National Bank, Acct No xxxx8067, PO box 673, Minneapolis, MN 55440-0673
 5674134 VSA CASH SERVICES, Fernley, NV 89408
 5731607 +WELLS FARGO BANK, N.A., ONE HOME CAMPUS, MAC ID # X2302-04C, DES MOINES, IA 50328-0001
 5724169 +Wells Fargo Bank NA, 4137 121st Street, Urbandale IA 50323-2310
 5674135 Wells Fargo Financial, Acct No xxxx6559, PO Box 89784, Las Vegas, NV 89193-8784
 5674136 Wells Fargo Home Mortgage, Acct No xxxxxx8294, PO Box 51965, Los Angeles, CA 90051-6265

The following entities were noticed by electronic transmission on Oct 01, 2010.

cr +E-mail/PDF: rmscedi@recoverycorp.com Oct 01 2010 04:20:59
 RECOVERY MANAGEMENT SYSTEMS CORPORATION, 25 S.E. SECOND AVENUE,
 INGRAHAM BUILDING, SUITE 1120, MIAMI, FL 33131-1506
 5674112 E-mail/Text: ngoodman@cashcall.com CASHCALL, Acct No xxxx8636,
 17360 BROOKHURST ST, Fountain Valley, CA 92708
 5674113 +E-mail/Text: opsqa_usbankruptcy@cashnetusa.com CASHNET USA,
 Acct No xxxx9612, 2225 GREEN VISTA DRIVE, STE 305, Sparks, NV 89431-8507
 6133413 E-mail/PDF: gecsed@recoverycorp.com Oct 01 2010 04:26:57 GE MONEY BANK,
 ATTN: BANKRUPTCY DEPARTMENT, PO BOX 960061, ORLANDO FL 32896-0661
 5809721 E-mail/PDF: rmscedi@recoverycorp.com Oct 01 2010 04:20:59
 Recovery Management Systems Corporation, 25 S.E. 2nd Avenue, Suite 1120,
 Miami, FL 33131-1605
 5714004 +E-mail/Text: ebn@phinsolutions.com Rjm Acquisitions Llc,
 575 Underhill Blvd, Suite 224, Syosset, NY 11791-3416
 5674128 +E-mail/PDF: gecsed@recoverycorp.com Oct 01 2010 04:27:01 Select Comfort, Acct No xxxx6488,
 P.O. Box 981439, El Paso, TX 79998-1439
 5674132 +E-mail/Text: bnc@ursi.com United Recovery Systems, Acct No xxxx4279,
 5800 North Course Dr, Houston, TX 77072-1613
 5674133 +E-mail/PDF: bankruptcyverizonwireless@afninet.com Oct 01 2010 04:17:06 Verizon,
 Acct No xxxx0001, PO Box 96088, Bellevue, WA 98009-8800

TOTAL: 9

***** BYPASSED RECIPIENTS (undeliverable, * duplicate) *****

5674122 ##LELAND SCOTT AND ASSOCIATES, Acct No xxxx5752, PO BOX 2205, Mansfield, TX 76063-0040
 5674124 ##MERIMAC CAPITAL, Acct No xxxx0367, 201 MAIN STREET, STE 1000, Fort Worth, TX 76102-3109
 TOTALS: 0, * 0, ## 2

Addresses marked '+' were corrected by inserting the ZIP or replacing an incorrect ZIP.
 USPS regulations require that automation-compatible mail display the correct ZIP.

Addresses marked '++' were redirected to the recipient's preferred mailing address
 pursuant to 11 U.S.C. 342(f)/Fed.R.Bank.PR.2002(g)(4).

Addresses marked '##' were identified by the USPS National Change of Address system as undeliverable. Notices
 will no longer be delivered by the USPS to these addresses; therefore, they have been bypassed. The
 debtor's attorney or pro se debtor was advised that the specified notice was undeliverable.

District/off: 0978-3
Case: 10-50526

User: wenszellg
Form ID: pdf945

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Total Noticed: 39

Date Rcvd: Sep 30, 2010

***** BYPASSED RECIPIENTS (continued) *****

I, Joseph Speetjens, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 9): Pursuant to Fed. R. Bank. P. 2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 02, 2010

Signature:

A handwritten signature in black ink, reading "Joseph Speetjens", written over a horizontal line.